



4000-01-U

DEPARTMENT OF EDUCATION

Native American Career and Technical Education Program;  
Final Waivers and Extension of Project Period

AGENCY: Office of Vocational and Adult Education,  
Department of Education.

ACTION: Notice.

Overview Information:

Final Waivers and Extension of Project Period for the  
Native American Career and Technical Education Program  
Catalog of Federal Domestic Assistance (CFDA) Number:  
84.101A

SUMMARY: For 60-month projects funded in fiscal year (FY)  
2007 under the Native American Career and Technical  
Education Program (NACTEP), the Secretary waives 34 CFR  
75.250 and 75.261(c)(2) in order to extend the project  
period of these current NACTEP grants for an additional 12  
months. This will enable the 30 current NACTEP grantees to  
seek FY 2012 continuation awards for their current projects  
through FY 2013, and we will not announce a new NACTEP  
competition in FY 2012.

DATES: This notice of final waivers and extension of project period is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On February 16, 2012, we published a notice in the Federal Register (77 FR 9216) (February 2012 notice) proposing to waive 34 CFR 75.250 and 75.261(c)(2), as they apply to NACTEP. These regulations generally limit project periods to 60 months and prohibit project period extensions involving the obligation of additional Federal funds. In that notice, the Secretary also proposed to extend the project period of NACTEP grants for an additional 12 months to enable the 30 current NACTEP grantees to seek FY 2012 continuation awards for their current projects through FY 2013; and to not announce a new NACTEP competition in FY 2012.

Public Comment: In the February 2012 notice for NACTEP, the Secretary invited comments about the potential effect

the proposed waivers and extension would have on NACTEP and on applicants that may be eligible to apply for grant awards under any new NACTEP notice inviting applications, should there be one. In response, we received 82 comments. Generally, we do not address comments that raise concerns not related to the proposed waivers and extension. Of the 82 comments we received, 81 supported the waivers, extension, and continuation of current NACTEP grantees' awards, citing the benefits the NACTEP grants provide to the Native American community.

#### Analysis of Comments and Changes.

Comments: The vast majority, 81 of the 82 comments we received supported the proposed waivers and extension of the NACTEP project period. We heard from a variety of commenters, including tribal community college deans and administrators, teachers, students, and a project evaluator. The commenters provided various reasons for their support of the waivers and extension, including: their judgment of effectiveness of work being done by current NACTEP grantees in current projects, the number of students served and placed in employment under current projects, and the great need for funding such as that provided by NACTEP in the Native American communities served by current projects.

Several commenters stated that it would be difficult for eligible entities to prepare NACTEP applications for short-term funding prior to the reauthorization of the Carl D. Perkins Career and Technical Education Act of 2006 (the Perkins Act). Other commenters stated that with potential changes in the Perkins authorizing legislation for NACTEP beyond FY 2012, it was not in the public interest to conduct a NACTEP grant competition at this time.

Several commenters expressed the view that the waivers and extension of the current project period would be necessary to allow current students sufficient time to complete their programs.

One commenter, who fully supported the proposed waivers and extension, stated that tribal colleges would not have sufficient time to plan, establish, or effectively operate viable programs within a one-year timeframe. The commenter expressed the view that continuing the projects of current NACTEP grantees would eliminate the difficulties, barriers, and inefficiencies associated with starting new programs and stated further that extending the current project period and funding of current grantees would: capitalize upon the current momentum of NACTEP grantee service delivery, since service streams were already in place and operational; allow current NACTEP

grantees to support reasonable modification as a direct outgrowth of their current work without disruption to participant cohorts, partnerships, programs, or plans; and afford a greater likelihood of successful attainment, such as student attainment of associate degrees and certificates, and subsequent job placement. The commenter further stated that NACTEP evaluation requirements place an expectation for the measurement of long-term impact of each project, which would be greatly enhanced by extending the project duration beyond five years.

Response: We have considered the comments we received from individuals and from individuals representing tribes, community colleges, and tribal organizations. The vast majority of commenters supported the waivers and extension of the project period and favor our proposal to continue the current grants for an additional year under the current NACTEP authority. The vast majority of commenters agree with our overall rationale for the waivers and extending the current project period and believe that these waivers and extension are in the public interest.

Changes: None.

Comment: One commenter requested information on future NACTEP grant periods and asked whether a new NACTEP grant competition would be held in FY 2013.

Response: At this time, we do not know whether there will be a NACTEP competition in FY 2013 or future years. If there is a NACTEP competition in any future year, we will announce that competition through a Federal Register notice inviting applications in which we will include, among other information, the length of the grant period.

Changes: None.

#### Background

The current NACTEP grantees, selected based on our March 23, 2007, NACTEP Federal Register notice inviting applications (72 FR 13770) (March 2007 notice), operate career and technical education programs, as authorized by section 116(a) through (g) of the Perkins Act (20 U.S.C. 2326(a)-(g)). The project period for the current 30 NACTEP grantees is scheduled to end in FY 2012. For the NACTEP projects funded in 2007, the Secretary waives the requirements of 34 CFR 75.250 and 75.261(c)(2), which generally limit project periods to 60 months and prohibit project period extensions involving the obligation of additional Federal funds, in order to extend the current NACTEP project period for an additional 12 months and allow the 30 current NACTEP grantees to seek continuation awards in FY 2012.

The Secretary's waivers and extension mean that: (1) current NACTEP grantees will be authorized to request and receive NACTEP continuation awards in FY 2012 for project periods through FY 2013, (2) we will not announce a new competition to make new awards in FY 2012, (3) the March 2007 notice will continue to govern current projects during the extension year, and (4) the 30 applications approved under the March 2007 notice will govern continuation activities.

The March 2007 notice: (1) established a project period of up to 60 months and reiterated that funding for multi-year awards would be dependent on a grantee meeting the requirements of 34 CFR 75.253 (continuation of a multi-year project after the first budget period); (2) explained the requirements of the program; (3) described the evaluation and reporting requirements; and (4) established the Government Performance and Results Act (GPRA) performance indicators for NACTEP.

With these waivers and extension of the project period, the current 30 NACTEP grantees may request continuation awards for one additional project year, through FY 2013, and we will consider those continuation award requests under the current NACTEP statutory authority. Any requests for continuation awards will be

subject to the requirements of 34 CFR 75.253, including the requirement that each grantee demonstrate that it is making substantial progress performing its NACTEP grant activities based on the requirements in the March 2007 notice inviting applications.

We will make decisions regarding continuation awards based on information provided in NACTEP grantee requests for continuation awards, including information provided in program narratives, budgets and budget narratives, and performance reports. Any activities to be carried out during the continuation year must be consistent with, or be a logical extension of the scope, goals, and objectives of, each grantee's application as approved in the 2007 NACTEP competition.

#### Waiver of Delayed Effective Date

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). During the 30-day public comment period on the notice of proposed waivers and extension of project period, of the 82 comments we received, 81 supported the waivers and extension of the project period for current NACTEP grantees. Except for minor editorial and technical revisions, there are no



differences between the proposed and final notices of waivers and extension of the project period for NACTEP. In addition, given the fact that the additional period of funding is only for a 12-month period, and in order to be able to make timely continuation grants to the 30 entities affected, the Secretary has determined that a delayed effective date is unnecessary and contrary to the public interest.

#### Regulatory Flexibility Act Certification

The Secretary certifies that the waivers and extension and the activities required to support an additional year of NACTEP funding will not have a significant economic impact on a substantial number of small entities.

The small entities that will be affected by the waivers and extension are the 30 currently-funded NACTEP grantees.

The Secretary certifies that the waivers and extension will not have a significant economic impact on these NACTEP entities because the waivers and extension impose minimal compliance costs to extend projects already in existence, and the activities required to support the additional year of funding will not impose additional regulatory burdens or require unnecessary Federal supervision. Furthermore, the

costs of carrying out these activities could be paid for with program funds.

Paperwork Reduction Act of 1995

This notice of waivers and extension does not contain any information collection requirements.

Intergovernmental Review

The NACTEP is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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Program Authority: 20 U.S.C. 2326(a) through (g).

Dated: May 18, 2012

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Johan Uvin,  
Delegated Authority to Perform the  
Functions and Duties of the  
Assistant Secretary for Vocational  
and Adult Education.

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